

124E.06 FORMING A SCHOOL.

Subdivision 1. **Individuals eligible to organize.** (a) An authorizer, after receiving an application from a school developer, may charter a licensed teacher under section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed teachers under section 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the authorizer's affidavit under subdivision 4.

(b) An authorizer shall not approve an application submitted by a charter school developer under paragraph (a) if the application does not comply with subdivision 3, paragraph (d), and section 124E.01, subdivision 1. The commissioner shall not approve an affidavit submitted by an authorizer under subdivision 4 if the affidavit does not comply with subdivision 3, paragraph (d), and section 124E.01, subdivision 1.

Subd. 2. **Nonprofit corporation.** (a) The school must be organized and operated as a nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this chapter.

(b) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a nonprofit corporation under chapter 317A.

(c) Notwithstanding sections 465.717 and 465.719, a school district, subject to this chapter, may create a corporation for the purpose of establishing a charter school.

Subd. 3. **Requirements.** (a) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people older than 18 years of age. A charter school may offer a free or fee-based preschool or prekindergarten that meets high-quality early learning instructional program standards that are aligned with Minnesota's early learning standards for children. The hours a student is enrolled in a fee-based prekindergarten program do not generate pupil units under section 126C.05 and must not be used to calculate general education revenue under section 126C.10.

(b) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. An authorizer may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(c) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled. This paragraph does not apply to shared time aid under section 126C.19.

(d) This chapter does not provide a means to keep open a school that a school board decides to close. However, a school board may endorse or authorize the establishment of a charter school to replace the school the board decided to close. Applicants seeking a charter under this circumstance must demonstrate to the authorizer that the charter sought is substantially different in purpose and program from the school the board closed and that the proposed charter satisfies the requirements of section 124E.01, subdivision 1. If the school board that closed the school authorizes the charter, it must document in its affidavit to the commissioner that the charter is substantially different in program and purpose from the school it closed.

(e) A school authorized by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(f) Except as provided in paragraph (a), a charter school may not charge tuition.

(g) The authorizer may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this chapter or does not meet the ready-to-open standards that are part of the authorizer's oversight and evaluation process or are stipulated in the charter school contract.

Subd. 4. **Approval process; authorizer's affidavit.** Before the operators may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. An authorizer must file an affidavit at least 14 months before July 1 of the year the new charter school plans to serve students. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the authorizer and the charter school board of directors under section 124E.10, subdivision 1. The commissioner must approve or disapprove the authorizer's affidavit within 60 business days of receipt of the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business days to address the deficiencies. The commissioner must notify the authorizer of final approval or disapproval within 15 business days after receiving the authorizer's response to the deficiencies in the affidavit. If the authorizer does not address deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain commissioner approval precludes an authorizer from chartering the school that is the subject of this affidavit.

Subd. 5. **Expansion of a charter.** (a) A charter school may apply to the authorizer to amend the school charter to expand the operation of the school to additional grades or sites that would be students' primary enrollment site beyond those defined in the original affidavit approved by the commissioner. After approving the school's application, the authorizer shall submit a supplementary affidavit in the form and manner prescribed by the commissioner. The authorizer must file a supplement affidavit by October 1 to be eligible to expand in the next school year. The supplementary affidavit must document that the school has demonstrated to the satisfaction of the authorizer the following:

(1) the need for the expansion with supporting long-range enrollment projections;

(2) a longitudinal record of demonstrated student academic performance and growth on statewide assessments under chapter 120B or on other academic assessments that measure longitudinal student performance and growth approved by the charter school's board of directors and agreed upon with the authorizer;

(3) a history of sound school finances and a finance plan to implement the expansion in a manner to promote the school's financial sustainability; and

(4) board capacity and an administrative and management plan to implement its expansion.

(b) The commissioner shall have 30 business days to review and comment on the supplemental affidavit. The commissioner shall notify the authorizer in writing of any deficiencies in the supplemental affidavit and the authorizer then has 20 business days to address, to the commissioner's satisfaction, any deficiencies in the supplemental affidavit. The commissioner must notify the authorizer of final approval or disapproval within 15 business days after receiving the authorizer's response to the deficiencies in the affidavit. The school may not expand grades or add sites until the commissioner has approved the supplemental affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

Subd. 6. **Conversion of existing schools.** A board of an independent or special school district may convert one or more of its existing schools to charter schools under this chapter if 60 percent of the full-

time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 7. **Merger.** (a) Two or more charter schools may merge under chapter 317A. The effective date of a merger must be July 1. The merged school must continue under the identity of one of the merging schools. A new charter contract under section 124E.10, subdivision 1, must be executed by July 1. The authorizer must submit to the commissioner a copy of the new signed charter contract within ten business days of its execution.

(b) Each merging school must submit a separate year-end report for the previous year for that school only. After the final fiscal year of the premerger schools is closed out, the fund balances and debts from the merging schools must be transferred to the merged school.

(c) For its first year of operation, the merged school is eligible to receive aid from programs requiring approved applications equal to the sum of the aid of all of the merging schools. For aids based on prior year data, the merged school is eligible to receive aid for its first year of operation based on the combined data of all of the merging schools.

History: 1991 c 265 art 9 s 3; 1992 c 499 art 12 s 1; 1993 c 224 art 9 s 2,4,5,7; 1Sp1995 c 3 art 9 s 2; 1Sp1997 c 4 art 5 s 6; 1998 c 397 art 2 s 2,3,6,164; art 11 s 3; 1998 c 398 art 5 s 55; 1999 c 241 art 5 s 8,9; 1Sp2001 c 6 art 2 s 21,23; 1Sp2003 c 9 art 2 s 23; 1Sp2005 c 5 art 2 s 59; 2007 c 146 art 2 s 23; 2009 c 96 art 2 s 41; 2010 c 382 s 25; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 1 s 20; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 35,38; 1Sp2015 c 3 art 4 s 1,3,4,7,10